

# CALIFORNIA ACUPUNCTURE BOARD

444 North 3<sup>rd</sup> Street, Suite 260, Sacramento, CA 95814-0226  
Phone: (916) 445-3021 / FAX: (916) 445-3015  
E-mail: [acupuncture@dca.ca.gov](mailto:acupuncture@dca.ca.gov) Web: [www.acupuncture.ca.gov/](http://www.acupuncture.ca.gov/)

State of California  
Department of Consumer Affairs  
Arnold Schwarzenegger, Governor



Approved May 23, 2006

## ACUPUNCTURE BOARD MEETING MINUTES

December 2, 2005  
Monterey Park  
City Hall Council Chambers  
Monterey Park, California 91754

### Full Board Meeting Friday, December 2, 2005

#### **Members Present**

Shari Asplund, Chair  
Joan C. Chang, L.Ac., Vice Chair  
Steven Tan, M.D., L.Ac.  
Kenny G. Cherng, L.Ac.  
Justin Tin, DDS  
Larry Yee

#### **Staff Present**

Janelle Wedge, Interim Executive Officer  
LaVonne Powell, Legal Counsel  
Nancy Molinar, Education Coordinator  
Michele Marine, Administrative Technician

#### **Members Absent**

#### **Guest List on File**

#### **1. Call to Order and Establishment of a Quorum (S.Asplund, Chair)**

Chair, Shari Asplund, called the Acupuncture Board (Board) meeting to order at approximately 8:35 a.m. Roll was taken and a quorum was established.

#### **2. Chair's Report – Shari Asplund**

Ms. Asplund relayed that during her nine-year tenure the Board has dealt with many controversial issues, including the recent false accusations by the Legislature. She praised the Board for their hard work and stated that members should be proud of their performance. Ms. Asplund advised consumers and licensees to remain active in cultivating the acupuncture profession, stating that without their continuing efforts, everyone loses. She concluded by extending a heartfelt thanks to the board members and staff, extolling their caring and committed service.

#### **3. Vice Chair's Report – Joan Chang**

Ms. Chang prepared and presented a speech, (a copy is on record with the Acupuncture Board), in which she expressed sorrow and regret regarding the decision to reconstitute the Board and outlined examples of why she feels the decision was unfounded and unjustified.

#### **4. Interim Executive Officer's Report – Janelle Wedge**

Ms. Wedge commended members and expressed her hopes that the next board continues in their footsteps.

**5. Approval of August 22-23, 2005 Meeting Minutes**

**LARRY YEE MOVED AND JOAN CHANG SECONDED THE MOTION TO APPROVE THE AUGUST 22 – 23, 2005 MINUTES. PASSED UNANIMOUSLY.**

**6. Administrative Business – (Discussion/Action)**

**a. Proposed Regulatory Amendments to Title 16, California Code of Regulations**

**1. Single Use Needles - Amend Sections 1399.434, 1399.436, 1399.450, 1399.451, and 1399.454**

Ms. Wedge explained on August 22, 2005, during the regulation hearing, the Board adopted sections 1399.450, 1399.451, and 1399.454 as noticed and voted to proceed with a 15-day notice to amend sections 1399.434 and 1399.436 to require coursework to include instruction in the requirement of single-use needles. The 15-day notice was mailed on September 28, 2005. No comments were received and the final rulemaking package was filed with the Office of Administrative Law (OAL) on November 2, 2005. OAL has 30 working days in which to approve or deny the file. If it were approved, there would not be a lapse in the effective date of July 5, 2005, by way of emergency regulations.

**2. Continuing Education - Amend Sections 1399.480, 1399.481, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1, 1399.490 and 1399.491**

Ms. Wedge indicated the Board had agreed it was unnecessary to limit continuing education (CE) to 8- hours in one day and to not delete existing language regarding CE credit given to instructors at the August 22, 2005 regulation hearing. Members also determined to require CE providers to notify the Board within 48 hours of the course date if the course has been postponed or cancelled and if a course is not taught within three months of the original approved course date, then providers need to reapply for course approval. Ms. Wedge relayed the final package including these amendments would be filed with OAL by the end of December.

**3. Citation and Fine - Amend Section 1399.465**

Ms. Wedge relayed the proposed amendment to section 1399.465, regarding citation and fine, which allows the board to impose a civil penalty between \$2,501 and \$5,000 where exceptional circumstances were present, was voted to be adopted by the Board at the August 2005 regulatory hearing. Ms. Wedge reported the final package including this amendment would be filed with OAL by the end of December.

**b. Fiscal Year 2005/2006 Budget Report**

Ms. Wedge said the budget report for fiscal year 2005/2006 held no surprises and informed members the surplus would go into reserve.

**c. SB 248 (Figueroa) - Board's Sunrise Legislation**

Ms. Wedge stated SB248 (Figueroa) repeals the nine-member board to seven and extends the Board until 2009. The seven appointees will include three acupuncturists with at least five years of experience in acupuncture and four public members who do not hold a license or certificate as a physician and surgeon or acupuncturist. The acupuncturist members shall be appointed to represent a cross section of the cultural backgrounds of licensed members of the acupuncturist profession. The Governor shall appoint the three acupuncturist members and two of the public members. All members appointed to the board by the Governor shall be subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

**d. Miscellaneous 2005 Legislative Bills**

**1. AB 1113 (Yee) - Diagnosis**

Ms. Wedge reported AB1113(Yee) was vetoed by the Governor on October 7, 2005 for the following reason; “As worded, the bill would authorize a licensed acupuncturist to diagnose within his or her own scope of practice. The term “scope of practice” is vague and leaves room for interpretation. I would consider signing a bill that authorizes an acupuncturist to diagnose specifically for the purpose of providing acupuncture treatment.”

**2. AB 1114 (Yee) – Continuing Education**

Ms. Wedge relayed AB1114(Yee) was signed by the Governor on October 7, 2005 and becomes law on January 1, 2006. This bill increases the number of continuing education (CE) hours from 30 to 50 hours every two years. This bill also limits the number of CE hours spent on issues unrelated to clinical matters or the actual provision of health care to patients to no more than 5 hours.

**3. AB 1115 (Yee) - Acupuncture Assistants**

Ms. Wedge indicated AB1115(Yee) was vetoed by the Governor on October 7, 2005 for the following reason; “The bill is unnecessary. Existing law clearly prohibits any person other than a licensed acupuncturist or other specified health professional from practicing acupuncture. The functions performed by the “acupuncture assistant” as defined in this bill are administrative and clerical in nature and do not require regulation in order to enhance public health and safety.”

**4. AB 1117 (Yee) – Asian Medicine**

Ms. Wedge reported AB1117(Yee) was signed by the Governor on October 7, 2005 and becomes law on January 1, 2006. This bill amends the term “oriental medicine” to “Asian Medicine” and changed the term “oriental massage” to “Asian Massage” within Sections 2075, 3642, 4926, 4937, and 4939 of the Business and Professions Code, relating to medicine.

**7. Enforcement Business – (Discussion/Action)**

**a. Enforcement Committee Report - Use of Acupuncture Assistants**

**b. Fiscal Year 2005/2006 Enforcement Case Report**

Ms. Asplund noted the number of enforcement complaints by category appears stable including zero complaints for unsafe conditions.

**8. Examination Business – (Discussion/Action)**

**a. August 17, 2005 Licensing Examination Statistics**

**b. March 7, 2006 California Acupuncture Licensing Examination (CALE)**

Ms. Wedge indicated the August 17, 2005 California Acupuncture Licensing Exam (CALE) statistics showed 66% of examinees passed. She also expressed to members that with the implementation of the new Automated Tracking System (ATS) being used by the Board, history needs to be documented in the system in order to provide better-detailed statistics in the future.

**9. Educational Business – (Discussion/Action)**

**a. Pending School Site Visits**

Ms. Molinar, Education Coordinator, reminded members they had agreed to terminate four schools applications as previously noted, due to abandonment. She also indicated a school site visit to Life University in Gardena was tentatively scheduled for the following week of December 5, 2005, contingent upon the Clinical Director’s license status.

**b. Status on Schools Implementation of 3,000 Hour Curriculum Requirements**

Ms. Molinar stated all 26 Board approved schools have responded to the Curriculum Review and five schools are currently pending review due to the following reasons: Acupuncture & Integrative Medicine College, Berkeley, had submitted an outdated catalog and indicated a current catalog would be sent by mid-November, which the Board has yet to receive. New York College for Health Professions responded to the Board's request on November 28, 2005. Santa Barbara College of OM and South Baylo University were faxed a list of issues the first of November and a response has not yet been received. Tai Sophia Institutes' review revealed the five element Master's of Acupuncture training received Board approval in 1984 and the program does not include an integrated herbal program. All students must complete the separate Certification in Herbal Medicine program to be eligible to sit for the CALE. They also indicated Zero Balancing is required in place of the Board's requirement of Tui Na/Shiatzu and General Psychology is not TAI required and must be taken outside of the school to meet California Acupuncture Board requirements. The hours are not calculated or totaled in the M.Ac. Program.

**c. Proposed MOU Between Acupuncture Board and Bureau of Private Postsecondary and Vocational Education (BPPVE) – Marcia Trott, Educational Specialist, BPPVE**  
Marsha Trott from the BPPVE presented a proposed Memorandum of Understanding (MOU) which helps delineate a mutual cooperation between the Board and the BPPVE.

**d. California Code of Regulations section 1399.436(b) – Pacific College of Oriental Medicine's Suggested Proposal Regarding Clinical Training Requirements**

Tom Haines, Pacific College of Oriental Medicine, presented a letter submitted to the Board by Jack Miller, President of Pacific College of Oriental Medicine, regarding regulation 1399.436(b) addressing clinical training requirements. The regulation states that, "The curriculum shall include adequate clinical instruction, 75% of which shall be in a clinic which is owned and operated by the training program..." Mr. Miller suggested using the same criteria used by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM) as an alternative. ACAOM's criterion reads as follows: "...The supervised clinical practice must be an internship and must be conducted in a teaching clinic operated by the institution or in a clinical facility with a formal affiliation with the institution where the institution exercises academic oversight substantially equivalent to the academic oversight exercised for teaching clinics operated by the institution, where: 1) clinical instructors' qualifications meet school requirements for clinical instruction; 2) regular, systematic evaluation of the clinical experience takes place; and, 3) clinical training supervision procedures are substantially equivalent to those within the teaching clinic operated by the institution." After some discussion, members decided more research by the staff needed to be done and to add this issue to the next board meeting agenda.

**STEVEN TAN MOVED AND LARRY YEE SECONDED THE MOTION TO HAVE BOARD STAFF DO MORE RESEARCH REGARDING THE PROPOSAL TO AMEND CALIFORNIA CODE OF REGULATIONS SECTION 1399.436(B) REGARDING CLINICAL TRAINING REQUIREMENTS AND AGENDIZE FOR THE NEXT BOARD MEETING. PASSED UNANIMOUSLY**

**10. Recognition of Board Members and Presentation of Plaques**

Appreciation plaques were awarded to former Board Members, Michael F. Eng and Pei Li Zhong-Fong for their continuous dedication and excellent service provided to the Board. As a conclusion to each of their terms due to the reconstitution of the Board, plaques were also presented to current Board Members, Shari Asplund, Joan Chang, Steven Tan, Kenny Cherng, Justin Tin and Larry Yee, for their unending commitment in promoting and protecting

California consumers. Marilyn Nielsen, former Executive Officer, was presented with a contemporary crystal vase in sincere appreciation of her relentless passion and devoted service throughout her ten years of employment for the Acupuncture Board.

**11. Public Comment Period:**

Michele Lau, Council of Acupuncture and Oriental Medicine Associations,(CAOMA), addressed the Board, thanking them for their service and expressed her dismay in the manner of which things were ending but reassured everyone that CAOMA would continue to work for public safety and the profession.

David Karaba, South Baylo University, asked for the Board to consider that all continuing education providers be licensed acupuncturists, stating that chiropractors should not be teaching acupuncturists.

**12. HEARING: PETITION FOR REINSTATEMENT**

**Petitioner: Zuoping Cai (Case No. PRRL-1A-2005-135)**

**13. CLOSED SESSION: Pursuant to Government Code Section 11126(c)(3) to discuss/take action on disciplinary actions.**

**14. Adjournment –**

The California Acupuncture Board meeting adjourned at approximately 3:00 PM.